

NEW MEXICO WINGS

WORKING INTERDISCIPLINARY NETWORK OF GUARDIANSHIP STAKEHOLDERS

JUDGE NANCY J. FRANCHINI

2nd Judicial District Court, Chair

Minutes of NM WINGS

Quarterly Meeting held November 30, 2021

The Quarterly Meeting of the New Mexico Working Interdisciplinary Network of Guardianship Stakeholders was held via Zoom on November 30, 2021.

The Chair called the meeting to order at 1:06pm.

Role was taken and the following members were present: Justice C. Shannon Bacon, Judge Nancy J. Franchini, Judge Bryan Biedscheid, Judge Dan Bryant, Ms. Anastasia Martin, Ms. Alice Liu McCoy, Mr. Brian Colón, Mr. Van Snow, Sen. Katy Duhigg, Rep. Joanne Ferrary, Mr. Tim Gardner, Ms. Rosanna Soloperto, Mr. Greg Ireland, Ms. Veronica Chavez Neuman, Ms. Margaret "Peggy" Graham, Dr. Christine Burns, Ms. Patricia Galindo, Ms. DeAnza Valencia, and Judge William Johnson.

The Chair introduced the agenda and the proposed redraft of the temporary guardianship law, which had been circulated prior to the meeting. Members discussed various provisions of the law and suggested several modifications to the proposed redraft, including the requirement for a hearing within 10 days of a motion for a temporary guardian and the requirement of a report filed by the temporary guardian within 15 days of termination. Members also discussed the need to modify court forms if the statute is amended and the desire to replace the phrase "physical health" with the phrase "health, safety or welfare," throughout the statute.

Network members debated whether to propose changing "counsel" to "guardian ad litem" in section B. The Chair polled the Network on their preferences and determined that a majority preferred "guardian ad litem."

Further discussion concerned the required notice in temporary guardianship proceedings and the need to amend court rules to account for the shorter, 10-day period prior to the hearing.

In response to a question from Network member Mr. Ireland, the Chair stated that the temporary conservatorship statute would be redrafted to reflect these same proposed changes.

Judge Bryant observed that the word "counsel" also appears in section D of the statute, and he questioned whether that should be changed to "guardian ad litem" as well. The members discussed the

meaning of “counsel” as it appears in that section, the idea of appointed counsel for alleged incapacitated persons, and the various implications, including budgetary implications, of using one phrase or the other.

The Chair noted that are several issues for the Network to consider over time, but that her desire was to focus on this smaller issue related to temporary appointments, in the hope that the legislature would be able to address it during the fast-approaching session.

Network member Ms. Graham moved to keep the word “counsel” in place in section D, rather than changing it to “guardian ad litem.” Judge Bryant seconded the motion. After more discussion, the motion carried.

Further discussion focused on the timeline for making a motion to dissolve or modify a temporary order under section D. Network member Ms. Graham questioned whether the two-day notice provision in section D would preclude a hearing on such a motion at the 10 day hearing. Network Member Ms. Galindo suggested striking the two-day notice requirement. Members discussed the various implications of such a change and whether interested parties would have the right to move to dissolve the temporary order.

The Chair proposed deleting the language from “...on 2 days notice..” through “the court may prescribe.” The Chair polled the members on that change and found that 15 members supported it.

Continuing the discussion about section D, Judge Biedscheid questioned whether interested parties should be permitted to move for dissolution of a temporary order. After further discussion, the Chair again polled the members and found a majority agreed with adding “interested parties” in section D.

Network member Mr. Snow questioned whether section C should be amended to clearly limit the maximum duration of a temporary guardianship. The members discussed situations in which temporary guardianships might be extended. Network member Ms. Valencia suggested setting a clear, outside limit, such as 30 days. Ms. Galindo suggested making the end date clear, even if it can be extended for good reason. Judge Biedscheid noted occasional difficulty in receiving medical reports in a timely manner and observed that judicial discretion can sometimes be helpful.

After more discussion, Justice Bacon moved to amend section C to provide for an initial period of 30 days, with the possibility of extending it for a maximum of 60 more days on a finding of good cause. Ms. Valencia seconded, and the motion carried on a voice vote.

The Chair stated that she would send the updated draft of the bill to Network members who attended the meeting, asking for email confirmation of their final approval. There was no further discussion about the proposed redraft of the bill.

Public Comments were made by Ms. Lorraine Mendiola.

Upcoming meeting dates were displayed.

Network Member Ms. McCoy moved to adjourn the meeting. Rep. Ferrary seconded the motion. The motion carried and the meeting was adjourned at 3:02pm.